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## Section 75025 (\$60M) Criteria

### Division of Drinking Water and Environmental Management Ranking Criteria for Projects

#### Proposition 84: The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Public Resources Code Section 75001 et seq.)

#### Prevention and Reduction of Groundwater Contamination (\$60 Million)

##### Purpose

*To implement Public Resources Code Section 75025 of the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) as directed by the Legislature pursuant to Senate Bill X2 1 (Statutes of 2008) and Senate Bill 732 (Statutes of 2008).*

##### Background

Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 was passed by the voters of California in the general election of November 5, 2006.

The California Department of Public Health (CDPH) is responsible for implementing Public Resources Code (PRC) Sections 75020 through 75023 and 75025 (Chapter 2 Safe Drinking Water and Water Quality Projects). Senate Bill X2 1 enacted on September 30, 2008, calls for funding under PRC Section 75025 to be available for immediate projects needed to protect public health by preventing or reducing the contamination of groundwater that serves as a major source of drinking water for a community. This senate bill also requires CDPH to revise how project funding shall be prioritized, which is reflected in this criteria. In addition Senate Bill 732 enacted on September 30, 2008, requires CDPH to develop this criteria in consultation with Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB) and adopt regulations for cost recovery from applicants that subsequently receive repayment from a responsible party.

The general process for CDPH funding of Prop 84 Section 75025 projects is as follows:

1. CDPH requests notices of intent (NOI) and applications
2. Applicant submits a NOI
3. Applicant submits a complete application
4. CDPH evaluates applications

5. CDPH establishes Project Priority List
6. CDPH identifies fundable projects
7. CDPH notifies applicant of funding decision
8. CDPH issues Funding Agreement

## **Procedures for Development of Project Ranking Criteria**

To address the requirements of Proposition 84, Senate Bill X2 1, and Senate Bill 732, CDPH drafted criteria for the ranking of projects, and posted the draft criteria on the CDPH website. CDPH also solicited input from industry and other groups, via a stakeholders group.

CDPH held two public meetings to present and receive input on the draft criteria. The public meetings were held on April 14, 2009 in Southern California and April 16, 2009 in Northern California. CDPH also invited public comments to be submitted, and these comments were considered in developing the final criteria.

## **General Project Ranking Criteria and Project Funding Protocol**

### Process

1. CDPH reserves the right to modify these criteria, in consultation with appropriate stakeholder groups, as necessary to effectively implement this program. The criteria in effect when an applicant submits an application will apply to that application.
2. In 2009 CDPH will hold an open application period to allow public water systems, public agencies, and non-profit organizations to submit an application for each project. The open application period will include a deadline for submission of NOIs and applications. CDPH reserves the right to establish subsequent NOI and application deadlines within the same funding cycle to assure the timely expenditure of funds. All applicants must submit a NOI by the deadline to indicate their interest in the funding. Applicants that do not submit a NOI by the deadline will not be considered for funding. Only applications submitted by the deadline will be accepted for evaluation by CDPH. If any application component is determined to be incomplete, the applicant will have 10 working days from receipt of notification by CDPH to submit complete documents. If the application is still incomplete after this period, the applicant will be bypassed and not considered for funding. Any application that is submitted after the deadline will not be considered for funding.
3. Based on the information submitted in the application, the projects will be reviewed by CDPH staff for eligibility and a preliminary score will be assigned to the project using the criteria set forth below.
4. The draft ranking list will be subject to review and comment by a stakeholders' group and also will be released for public review and comment before being finalized by CDPH. Once the list is adopted, CDPH will determine the fundable projects and will notify applicants. CDPH will then proceed to issue a funding agreement for each fundable project.
5. Applicants with fundable projects may be reimbursed for expenses incurred for preliminary

and construction costs determined by CDPH to be eligible. Eligible preliminary costs may include planning, engineering, design, environmental documentation, and labor compliance. Construction expenses, in order to be eligible, must have been incurred after final execution of a funding agreement. Reimbursement will occur in arrears after the funding agreement is executed. Construction costs cannot be incurred until California Environmental Quality Act (CEQA) is completed and the applicant has an approved labor compliance plan.

6. Eligible project costs are limited to facilities sized to serve no more than the 20-year demand projected by affected public water system(s) in an Urban Water Management Plan or the 20-year demand projected in a planning document such as a Groundwater Management Plan, Cleanup and Abatement Plan, or similar document. If an applicant does not have an Urban Water Management Plan or comparable document, the eligible project costs are limited to facilities sized to serve no more than 10% above existing maximum day demand(s) of affected public water systems. A pipeline used to consolidate or interconnect water systems shall be sized to meet the needs of, and be consistent with, the current specifications of the resulting water system.
7. If a project design exceeds 10% of the water demand of affected public water system(s) at peak flow and if the applicant is required to prepare an Urban Water Management Plan pursuant to California Water Code Section 10610 et seq., then a copy of the plan shall be submitted to CDPH. The proposed project must be consistent with the system's most recent urban water management plan.
8. Proposition 84 grant funds cannot be used for operation and maintenance activities.
9. Grants to privately owned water systems that are regulated by the California Public Utilities Commission (CPUC) will be subject to the CPUC's review and approval and the CPUC's directives and/or general order(s), including CPUC Decision 06-03-015, addressing the water system's use of grant funds, intended to prohibit private gains from public funds.
10. CDPH will apply conditions and restrictions necessary to assure public benefit is derived from grant funds.
11. A project must start construction no later than six months following the date of funding agreement execution. The project must be completed within three years following the date of funding agreement execution.
12. A review of the cost effectiveness of the project will be part of the approval process. The application must include a life cycle cost analysis (minimum of 10 years) including the operations and maintenance costs for each alternative.
13. Each applicant will be required to fully evaluate consolidation of affected public water systems as a project alternative, if applicable.
14. Projects may fall under the jurisdiction of other state or federal agencies and are subject to those agencies normal permit and approval processes. CDPH may provide such agencies with an opportunity to review applications and plans and specifications prior to issuance of a

funding agreement for a proposed project. An applicant has full responsibility for obtaining all applicable permits and approvals. A funding agreement cannot be issued if an agency with jurisdiction over the proposed project notifies CDPH that the agency will deny approval and/or permits applicable to such project.

15. Applicants invited to submit an application under any funding cycle may request an extension to their construction project completion deadline beyond the limitations specified in the criteria under which the Applicant was invited. Any decision granting an extension to the project completion deadline is subject to the availability of funds and will be at CDPH's sole discretion.

### Disadvantaged Communities

PRC Section 75005(g) defines disadvantaged community. The ranking criteria for section 75025 include disadvantaged community status. As used in these ranking criteria, the income evaluation shall be based on one of the following:

- (a) the Median Household Income (MHI) of the applicant's service area OR
- (b) the MHI of a community that is part of the project's service area, where each census tract in that part of the service area is identified in the project and meets the definition of a disadvantaged community, and the primary purpose of the project is to benefit that community.

### **Definitions**

1. "Anthropogenic" is defined as caused by humans.
2. "Applicant" means the entity that signs the Funding Agreement.
3. "Community water system" is defined pursuant to Health and Safety (H&S) Code Section 116275(i) as a public water system that serves at least 15 service connections used by year-long residents or regularly serves at least 25 year-long residents of the area served by the water system.
4. "Consolidation project" means a project that involves the restructuring of two or more water systems into a single public water system through physical consolidation of the water systems.
5. "Disadvantaged community" means a community with an annual household income that is less than 80 percent of the statewide annual median household income.
6. "Public water system" is defined pursuant to H&S Code Section 116275(h) as a system for the provision of water that has 15 or more service connections or regularly serves at least 25 individuals at least 60 days out of the year.

7. “Ready to Proceed” is defined as completed plans and specifications, completed environmental documentation, and completed hydrogeologic investigation (if needed to support evaluation of criteria in Table A-75025).

### **Prevent or Reduce Contamination of Groundwater Specific Eligibility Criteria**

1. Eligible projects must meet all of the following conditions:
  - a. The project will prevent or reduce the contamination of groundwater.
  - b. The project is “Ready to Proceed”.
  - c. The project will protect public health and will address a contaminant with a Primary MCL.
  - d. The affected groundwater provides at least one-third of a community’s drinking water supply. (Based on data indicating historical, current, or potential supply.)
  - e. Project must address anthropogenic source of contamination.
2. The maximum Section 75025 grant per applicant is \$10 million. The total amount of grant awarded by CDPH to an applicant under Proposition 84, Sections 75022 and 75025 may not exceed \$15 million. These limitations do not apply to funding awarded by other agencies.
3. Projects will be assigned points in accordance with Table A-75025 and Table B-75025. Projects will be ranked based on the number of points assigned to the proposal, with the largest points ranked highest. For proposals with the same number of points, projects will be ranked by population served by the project with greatest population ranked highest.
4. Of the funds appropriated pursuant to Water Code Section 83002(b)(2) for the purposes of PRC Section 75025, up to \$10 million will be allocated for projects that are eligible pursuant to these criteria and that also meet the two additional criteria shown on Table C-75025. Such projects will be ranked initially based on the potential amount of leveraged funds, with higher amounts ranked first. Projects with the same leveraged amounts will then be ranked based on points in Table A-75025 and Table B-75025.
5. Eligible applicants are public agencies, non-profit organizations, and community water systems that hold or have applied for a domestic water permit pursuant to Health and Safety Code section 116525. Eligible applicants must also be a legal entity with authority to enter into an agreement with CDPH and implement the proposed project.
6. Applicants that receive funding shall be subject to future regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination pursuant to Senate Bill 732 (PRC Section 75101 (a)(1)) enacted on September 30, 2008.

7. If any water to be produced by the project will be directly used for public consumption, eligible project costs include the costs to meet applicable drinking water standards (primary and secondary) and applicable drinking water Notification Levels and/or Public Health Goals (PHG) for constituents that do not have a primary MCL.
8. Proposition 84 grant funds cannot be used as matching funds for Proposition 50 projects.
9. Projects to replace existing treatment facilities are eligible if one or more of the following conditions are met:
  - a. Existing treatment capacity needs to be increased (subject to above noted sizing criteria).
  - b. Existing treatment facility is nearing or at the end of its useful life.
  - c. Replacement of an existing treatment facility will reduce operation and maintenance costs for that facility.
  - d. Replacement of an existing treatment facility will increase contaminant removal efficiency through improved technology.

Table A-75025 Ranking Points		
Applicant/Project Characteristic	Criteria	Points
1. Impact on DW Sources	Multiple contaminants have reached PWS source and have been detected > MCL. Multiple treatment processes are required to remove contaminants.	6
	Multiple contaminants have reached PWS source and have been detected > MCL. Single treatment process is required to remove contaminants.	5
	Contaminant has reached PWS source and has been detected > MCL	4
	Contaminant has reached PWS source and has been detected < MCL	3
	Contaminant has not reached PWS source but is within 2 year Time of Travel (TOT)	2
	Contaminant has not reach PWS source but is within 2-10 year TOT	1
	2. Characteristics of Contaminant Plume	Plume is moving towards PWS source and contaminant source is being replenished
Plume is moving towards PWS source and contaminant source is not being replenished		2
Plume is stable and not migrating towards additional drinking water source(s)		1
3. Health Risk of Principal Contaminant Addressed by the proposed project	Acute effects, developmental effects, or effects from shorter-term exposures	4
	Carcinogen by ingestion + effects from chronic, longer term exposures	3
	Carcinogen by ingestion	2
	Chronic effects	1
4. Is treatment or alternate supply necessary to meet maximum day demand for affected PWS?	Yes	1
	No	0
5. Population that is served by PWS Sources that are within the 10 year Time of Travel for the contaminant	> 1,000,000	3
	100,000 – 1,000,000	2
	< 100,000	1
6. Will local water supply reliability be enhanced if project is fully implemented?	Yes	1
	No	0

Table A-75025 Cont. Ranking Points		
7. Will project increase opportunities for groundwater recharge and optimize groundwater supplies?	Yes	1
	No	0
Total Ranking Points in Table A-75025		

\* Principal is defined as the contaminant with the highest health risk

Table B-75025 Ranking Points		
Applicant/Project Characteristic	Criteria	Points
1. Will the project be implemented pursuant to a comprehensive basinwide groundwater quality management and remediation plan, or is it necessary to develop a comprehensive groundwater plan?	Yes	1
	No	0
2. Does affected groundwater provide a local supply that, if contaminated, will require the importation of additional water from the Sacramento-San Joaquin Delta or the Colorado River?	Yes	1
	No	0
3. Does the project serve an economically disadvantaged community? (Area served has an MHI that is $\leq$ 80% of the Statewide MHI)	Yes	1
	No	0
4. Are there multiple contaminants with a Primary MCL and/or PHG that affect more than one-third of the system's well capacity?	Yes	1
	No	0
Total Ranking Points in Table B-75025		
Total Ranking Points (Table A-75025 and Table B-75025)		

<b>Table C-75025</b>	
<b>\$10 Million Allocated for Projects that meet the Following Criteria</b>	
<b>Applicant/Project Characteristic</b>	<b>Criteria</b>
<b>1. Does the project have the potential to leverage funds?</b>	Yes
	No
<b>2. If the project can leverage funds, please indicate the potential amount and source of the funds to be leveraged.</b>	\$ _____ Source: _____
<b>3. Does the project address the contamination at a site on the list maintained by the Department of Toxic Substances Control pursuant to Health &amp; Safety Code Section 25356 or is the site listed on the federal CERCLA National Priorities List?</b>	Yes
	No